

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Bail Appl.No. 4175 of 2007()

CRIME NO.247/07 OF ERATTUPETTA POLICE STATION

PETITIONER/1ST ACCUSED

YOONUS P.I., S/O. P.S.IBRAHIMKUTTY
LABBA, PEEDIYEKKAL, ERATTUPETTA, KOTTAYAM.

BY ADV. SRI.SALIM V.S.

RESPONDENTS: COMPLAINANTS

1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, DISTRICT COURT,
ERNAKULAM.
2. THE SUB INSPECTOR OF POLICE,
ERATTUPETTA POLICE STATION, ERATTUPETTA,
KOTTAYAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 4175 of 2007

Dated this the 13th day of July, 2007

ORDER

Application for anticipatory bail. Petitioner is the first accused. Only the petitioner is named in the F.I.R. Along with him, three other unnamed persons also figure as accused in the F.I.R. The petitioner is an employee at the bus stand. The crux of the allegations is that he, along with the other three, employed force to take away money from the conductor's bag of the defacto complainant. In the course of the attempt of taking away the money, they allegedly caused injuries to the conductor of the bus as also the driver, who reached the scene to save the conductor. The alleged incident took place on 21.6.2007 at 5 p.m. The F.I.R. was registered at 7 p.m. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There was a dispute between the defacto complainant and the petitioner about the conduct of the complainant not taking his bus out of the stand within the stipulated

time. Because of such a quarrel, false, vexatious and wild allegations are being raised against the petitioner now. Discretion under Section 438 Cr.P.C. may be invoked and anticipatory bail may be granted to the petitioner, it is prayed.

3. The learned Prosecutor opposes the application. He submits that all the available indications do point to the complicity of the petitioner. There is absolutely no reason for the police to oblige the complainant if he were making false allegations. The defacto complainant and the driver of the bus had suffered injuries, though not serious and grievous. There are eye witnesses to the occurrence, who have already been identified and questioned. There are others in the bus stand, who had heard the commotion and in these circumstances it may not lightly be assumed that the whole allegations are false and concocted. Some of the co-accused have not so far been identified and arrested. The petitioner may not be permitted to arm himself with an order of anticipatory bail at this stage, submits the Prosecutor. The case diary have been placed before me. I have perused the same.

4. I find merit in the opposition by the learned Prosecutor. At this early stage of investigation I shall scrupulously avoid any detailed

discussion on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that on a detailed evaluation of the case, I am satisfied that this is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I find no reason to invoke the equitable discretion under Section 438 Cr.P.C.

5. This application is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge